

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

WELLS FARGO BANK NATIONAL
ASSOCIATION, AS TRUSTEE FOR
OPTION ONE MORTGAGE LOAN
TRUST 2007-FXD2, ASSET-BACKED
CERTIFICATES, SERIES 2007-FXD2,

Plaintiff,

v.

Case No. 3:17-cv-02106-N (BT)

GREGORY PLATT and
PAULA PLATT,

Defendants.

MEMORANDUM ORDER

Before the Court is Plaintiff's Motion to Reinstate (ECF No. 54). For the reasons that follow, the Court GRANTS Plaintiff's motion, reinstates this case to the active docket, and reinstates Plaintiff's Motion for Summary Judgment filed on April 26, 2019 (ECF No. 42).

As set forth in more detail in the Court's October 25, 2019 Show Cause Order, Plaintiff filed this civil action seeking to foreclose on Defendants Paula and Gregory Platt's home for nonpayment under a home equity loan agreement. Compl. 3-5 (ECF No. 1). On April 26, 2019, over a year and a half after filing suit, Plaintiff moved for summary judgment on its foreclosure claim. Defendants did not respond to Plaintiff's summary judgment motion. However, the action was abated on June 6, 2019 following an agreement reached in mediation. Order

Granting Joint Mot. Abate 1 (ECF No. 53); Joint Mot. Abate 3 (ECF No. 52). The agreement called for a Trial Period Modification Plan under which Defendants would make three house payments over a three-month period, and upon successful completion of the trial plan, Defendants would be entitled to a permanent loan modification. Joint Mot. Abate 3. However, if Defendants failed to make payments under the trial plan, the agreement provided that the parties would submit an agreed final judgment to the Court allowing Plaintiff to foreclose on Defendants' home. Mot. Reinstate 4. On September 23, 2019, Plaintiff moved to reinstate this action to the Court's active docket because Defendants failed to perform under the trial plan and further failed to respond to Plaintiff's requests that they sign an agreed final judgment. *Id.* Plaintiff appeared at a hearing on October 25, 2019 on its motion to reinstate. Defendants did not appear at the hearing as ordered. At the hearing, Plaintiff orally moved to reinstate the April 26, 2019 Motion for Summary Judgment.

In view of the circumstances, the Court GRANTS Plaintiff's Motion to Reinstate (ECF No. 54), reinstates this case to the active docket, and reinstates Plaintiff's Motion for Summary Judgment (ECF No. 42). Although Defendants failed to respond to the Motion for Summary Judgment in the first place, the Court grants Defendants the renewed opportunity to do so. In responding to the Motion for Summary Judgment, Defendants must comply with both the Federal Rules of Civil Procedure and the local rules of this district regarding the content and length of the response and the time in which it must be filed. Should Defendants again

fail to respond to the motion, it will be deemed unopposed. Finally, the Court directs Plaintiff to promptly submit in support of the Motion for Summary Judgment a proposed form of final judgment detailing its requirements to execute foreclosure.

SO ORDERED.

October 28, 2019.



REBECCA RUTHERFORD
UNITED STATES MAGISTRATE JUDGE